

23 FEB 1999



UNITED STATES DEPARTMENT OF COMMERCE
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Patent Cooperation Treaty
Legal Office

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Washington, D.C. 20231

Kerry A. Flynn
Biogen, Inc.
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Cambridge, MA 02142

In re Application of	:	
Karpusas	:	
U.S. No.: 09/180209	:	DECISION ON
PCT No.: PCT/US96/10664	:	
Int. Filing Date: 21 June 1996	:	PETITION
Priority Date: 22 June 1995	:	
Attorney's Docket No.: B189	:	UNDER 37 CFR § 1.137(b)
For: Crystals of Fragments of CD40 Ligand and	:	
Their Use	:	

This communication is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)," filed 04 November 1998, requesting that the above-captioned application be revived.

BACKGROUND

On 21 June 1996, applicant filed the above-captioned international application claiming priority to a U.S. patent application 60/000.448, filed 22 June 1995.

On 21 January 1997, a Demand was filed with the International Preliminary Examination Authority electing the United States. The election was made prior to the expiration of 19 months from the priority date, and as a result the deadline for submission of a copy of the international application and payment of the basic national fee was extended to expire 30 months from the priority date, i.e., 22 December 1997.

On 04 November 1998, applicant filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 which was accompanied by, *inter alia*, a petition to revive; and authorization to charge Counsel's Deposit Account 02-2327 any fees which may be required.

DISCUSSION

A review of the application file reveals that a Demand for the international preliminary

examination, in which the United States was elected, was filed 21 January 1997. The election of the United States prior to the expiration of 19th month from the priority date under the provisions of Article 39 of the Treaty extends the period for paying the basic national fee for entry into the national stage in the United States to 22 December 1997. Since applicant failed to pay the basic national fee by this date, the application went abandoned.

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional delay must be accompanied by (1) a proper reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply to the filing of a grantable petition pursuant to this paragraph was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

The appropriate petition fee of \$1,320.00 as required by 37 CFR 1.17(m) has been charged to Counsel's Deposit Account 02-2327 as authorized in the petition. In the statement in support of the petition, applicant states the "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. The terminal disclaimer is not required in this application since it was filed after 08 June 1995.

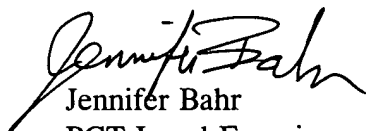
Regarding item (1) above, the proper reply was payment of the \$930.00 basic national fee, which has been charged to Counsel's Deposit Account, as authorized in the transmittal letter.

Accordingly, the petition satisfies the requirements of 37 CFR 1.137(b).

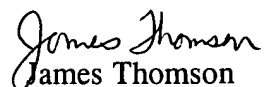
DECISION

In view of the discussion mentioned above, applicant's petition under 37 CFR 1.137(b) is **GRANTED**.

The application is being forwarded to the United States Designated/Elected Office for further processing.


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